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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JOSH KRIEGER, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

VCA, INC., ROBERT L. ANTIN, JOHN
M. BAUMER, JOHN B. CHICKERING
JR., JOHN HEIL, and FRANK
REDDICK,

Defendants.

CLASS ACTION

Civil Action No. : 2:17-cv-01790

**CLASS ACTION COMPLAINT
FOR VIOLATIONS OF
SECTIONS 14(a) AND 20(a) OF
THE SECURITIES EXCHANGE
ACT OF 1934, AND RULE 14A-9**

JURY TRIAL DEMANDED

Plaintiff Josh Krieger (“Plaintiff”), by and through his undersigned counsel, brings this stockholder class action on behalf of himself and all other similarly situated public stockholders of VCA, Inc. (“VCA” or the “Company”) against VCA, Robert L. Antin, Joh M. Baumer, John B. Chickering Jr., John Heil, and Frank Reddick, the members of VCA’s board of directors (collectively referred to

CLASS ACTION COMPLAINT

1 as the “Board” or the “Individual Defendants”), for violations of Sections 14(a)
2 and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C.
3 §§78n(a) and 78t(a) respectively, and United States Securities and Exchange
4 Commission (“SEC”) Rule 14a-9, 17 C.F.R. § 240.14a-9, in connection with
5 acquisition of VCA by Mars, Inc. (“Mars”) through a merger transaction as alleged
6 in detail herein (“Proposed Transaction”). Plaintiff alleges the following based
7 upon personal knowledge as to himself, and upon information and belief, including
8 the investigation of Counsel, as to all other matters.

9 **NATURE OF THE ACTION**

10 1. On January 9, 2017, VCA and Mars jointly announced that they had
11 reached a definitive Agreement and Plan of Merger (“Merger Agreement”) under
12 which Mars, through its wholly-owned subsidiary, MMI Holdings, Inc., will
13 acquire VCA in an all cash transaction valued at approximately \$9.1 billion.¹
14 Under the terms of the Merger Agreement, VCA’s public stockholders will receive
15 \$93.00 per share in cash for each of their VCA share (“Merger Consideration”).

16 2. Defendants have violated the above-referenced Sections of the
17 Exchange Act by causing a materially incomplete and misleading Schedule 14A
18 Definitive Proxy Statement (the “Proxy Statement”) to be filed with the SEC on
19 February 15, 2017. The VCA Board recommends in the Proxy Statement that VCA
20 stockholders vote in favor of approving Proposed Transaction at the stockholder
21 special meeting scheduled for March 28, 2017 and agree to exchange their shares
22 pursuant to the terms of the Merger Agreement based among other things on
23 internal and external factors examined by the Board to make its recommendation
24

25
26 ¹ The Proposed Transaction will be affected through Mars’ wholly-owned Delaware
27 Corporation Venice Merger Sub Inc (“Venice Merger Sub”). VCA will merge with and into
28 Venice Merger Sub, with VCA surviving as a wholly-owned subsidiary of MMI Holdings, Inc.

1 and an opinion rendered by the Company's financial advisor, Barclays Capital,
2 Inc.. ("Barclays").

3 3. The Merger Consideration and the process by which Defendants
4 agreed to consummate the Proposed Transaction are fundamentally unfair to
5 VCA's public stockholders. The Company has reported increasing financial
6 measure for 2016 and as a result, VCA's stock price had increased over \$10.00 in
7 the year prior to the announcement of the Proposed Transaction.

8 4. As discussed further below, little real effort was made to engage in a
9 true market check to find other parties interested in a strategic transaction with the
10 Company to maximize value for VCA stockholders. The inadequate Merger
11 Consideration reflects the lack of effort as it does not reflect the value of the
12 Company or the fair value of VCA stock.

13 5. To ensure the success of the Proposed Transaction, the VCA Board
14 issued the Proxy Statement that fails to provide all material information. In
15 particular, the Proxy Statement does not include a fair summary of the financial
16 analyses performed by Barclays and fails to disclose the projections for VCA
17 (including a GAAP to Non-GAAP reconciliation mandated by the SEC).

18 6. For these reasons and as set forth in detail herein, Plaintiff seeks to
19 enjoin Defendants from consummating the Proposed Transaction or in the event
20 the Proposed Transaction is consummated, recover damages resulting from the
21 Individual Defendants' violations Sections 14(a) and 20(a) of the Exchange Act.

22 **PARTIES**

23 7. Plaintiff is and has been at all relevant times, a stockholder of VCA
24 common stock.

25 8. Defendant VCA is a pet health care company with its principal office
26 at 12401 West Olympic Boulevard, Los Angeles, California. It is organized under
27

1 Delaware state law. VCA common stock trades on the NASDAQ exchange under
2 the symbol “WOOF”.

3 9. Defendant Robert L. Antin is the founder of the Company and serves
4 as President, Chief Executive Officer of VCA and has served the Chairman of the
5 Board since 1986.

6 10. Defendant John M. Baumer has served on the Board since 2005.

7 11. Defendant John B. Chickering, Jr. has served on the Board since April
8 2004.

9 12. Defendant John Heil has served on the Board since February 2002.

10 13. Defendant Frank Reddick has been a member of the Board since
11 2002.

12 14. The above members of the VCA Board are referred to herein as the
13 “Individual Defendants” and/or the “Board.”

14 **JURISDICTION AND VENUE**

15 15. This Court has subject matter jurisdiction pursuant to Section 27 of
16 the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question
17 jurisdiction) as Plaintiff alleges violations of Section 14(a) and 20(a) of the
18 Exchange Act.

19 16. Personal jurisdiction exists over each Defendant either because the
20 Defendant is an individual who is either present in this District for jurisdictional
21 purposes or has sufficient minimum contacts with this District as to render the
22 exercise of jurisdiction over Defendant by this Court permissible under traditional
23 notions of fair play and substantial justice.

24 17. Venue is proper in this District under Section 27 of the Exchange Act,
25 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because: (i) the conduct at
26
27
28

1 issue had an effect in this District; and (ii) VCA has its principal place of business
2 in Los Angeles, California, within this District.

3 **SUBSTANTIVE ALLEGATIONS**

4 **Company Background and Proposed Transaction**

5 18. VCA describes itself as a leading North American animal healthcare
6 company. We provide veterinary services and diagnostic testing services to support
7 veterinary care and we sell diagnostic imaging equipment and other medical
8 technology products and related services to veterinarians. We also franchise a
9 premier provider of pet services including dog day care, overnight boarding,
10 grooming and other ancillary services at specially designed pet care facilities.

11 19. The Company's reportable segments are as follows: (i) the Animal
12 Hospital segment operates the largest network of freestanding, full-service animal
13 hospitals in the nation. The animal hospitals offer a full range of general medical
14 and surgical services for companion animals. We treat diseases and injuries, offer
15 pharmaceutical and retail products and perform a variety of pet wellness programs,
16 including health examinations, diagnostic testing, routine vaccinations, spaying,
17 neutering and dental care. At September 30, 2016, our animal hospital network
18 consisted of 776 animal hospitals in 43 states and in five Canadian provinces, and
19 (ii) the Laboratory segment operates the largest network of veterinary diagnostic
20 laboratories in the nation. Our laboratories provide sophisticated testing and
21 consulting services used by veterinarians in the detection, diagnosis, evaluation,
22 monitoring, treatment and prevention of diseases and other conditions affecting
23 animals. At September 30, 2016, VCA's laboratory network consisted
24 of 60 laboratories serving all 50 states and certain areas in Canada.

25 20. For the three and nine months ended September 30, 2016, VCA's
26 "All Other" category included the results of our Medical Technology and Camp
27 Bow Wow operating segments. For the comparable prior periods in 2015, the

1 Company's "All Other" category included the results of operations of our Vetstreet
2 operating segment, which we sold in December 2015. Each of these segments did
3 not meet the materiality thresholds to be considered reportable segments.²

4 21. The Proposed Transaction was announced on January 9 2017:

5 **Mars, Incorporated to Acquire VCA Inc.**

6 All-cash transaction valued at approximately \$9.1 billion
7 VCA shareholders to receive \$93 per share of VCA common stock
8 VCA to be a separate business unit within Mars Petcare

9 MCLEAN, VA. and LOS ANGELES, CA., Jan. 9, 2017
10 – Mars, Incorporated and VCA Inc. (NASDAQ:WOOF)
11 today announced that they have entered an agreement
12 under which Mars will acquire all of the outstanding
13 shares of VCA for \$93 per share, or a total value of
14 approximately \$9.1 billion including \$1.4 billion in
15 outstanding debt. The transaction price represents a
16 premium of approximately 41 percent over VCA's 30-
17 day volume weighted average price on January 6, 2017,
and a premium of approximately 31 percent over VCA's
closing price on January 6, 2017. The agreement has
been unanimously approved by the boards of directors of
both companies.

18 VCA joins Mars Petcare, one of the world's leading pet
19 care providers. Pet care has been an important part of
20 Mars for over 80 years. The transaction reaffirms Mars'
21 commitment to the pet care industry and the veterinary
22 profession, and once completed will help drive Mars
23 Petcare's purpose to create A Better World for Pets. Mars
24 Petcare's portfolio of Veterinary Services businesses
includes BANFIELD® Pet Hospital, BLUEPEARL®
and PET PARTNERSTM . Together with VCA, these
businesses will provide an unprecedented level of access

25
26 ² Form 10-Q for the quarter ended September 30, 2016, filed with the SEC at
27 www.sec.gov/Archives/edgar/data/817366/000162828016020915/woof-2016930x10q.htm. (last
visited 03/06/2017)

1 to high quality veterinary care for pets, from wellness
2 and prevention to primary, emergency and specialty care.
3 Mars Petcare is already an industry leader in pet nutrition
4 with global brands that include ROYAL CANIN®,
5 PEDIGREE® and WHISKAS®. Mars has a growing
6 business in pet DNA testing through the WISDOM
7 PANEL®, and in 2015 also acquired pet technology
8 provider WHISTLE.

9 “We are thrilled to welcome VCA to the Mars family and
10 to our portfolio of brands and businesses around the
11 world,” said Mars Chief Executive Officer Grant F. Reid.
12 “VCA is a leader across pet health care and the
13 opportunity we see together—for pets, pet owners,
14 veterinarians and other pet care providers —is
15 tremendous. We have great respect for VCA, with whom
16 we share many common values and a strong commitment
17 to pet care. Together, we will be able to provide even
18 greater value, better service and higher quality care to
19 pets and pet owners.”

20 Since its founding in 1986, VCA has grown from one
21 facility in Los Angeles to nearly 800 animal hospitals
22 with 60 diagnostic laboratories throughout the United
23 States and Canada. Through organic growth and a series
24 of acquisitions, VCA has become one of the largest and
25 most diverse pet healthcare companies, operating across
26 four divisions including veterinary services, laboratory
27 diagnostics, imaging equipment and medical technology,
28 and pet care services. “Joining the Mars family of brands
provides significant value to our stockholders while also
preserving the Company’s values and a culture focused
on investing in our people and facilities to promote
excellence in pet care and long-term growth,” said VCA
Chief Executive Officer Bob Antin. “Mars has a long-
standing commitment to pet health, wellness and
nutrition. We will work together every day to continue to
provide the quality care and excellent service VCA is
known for to our clients and their pet families.”

1 “We have always been impressed by VCA and the
2 excellent services it offers to pets across diverse business
3 segments,” said Mars Global Petcare President Poul
4 Weihrauch. “VCA’s industry-leading partnerships with
5 veterinarians and pet care providers together with its
6 expertise in veterinary services, diagnostics and
7 technology will position Mars to deliver accessible,
8 quality care and continue to create a better world for pets.
9 VCA’s philosophy of partnering with the veterinary
10 profession and educational institutions is aligned with our
11 core values and culture. We look forward to together
12 providing the best care possible for pets.”

13 As one of the world’s leading pet care providers, Mars
14 Petcare is committed to attracting, developing and
15 retaining the best veterinarians and pet care professionals
16 in the world, supporting them in their efforts to provide
17 cutting edge delivery of healthcare to pets and to
18 advancing the profession.

19 **VCA to be a distinct and separate business unit within** 20 **Mars Petcare**

21 Upon completion of the transaction, VCA will operate as
22 a distinct and separate business unit within Mars Petcare,
23 alongside its other Veterinary Services businesses,
24 BANFIELD® Pet Hospital, BLUEPEARL® and PET
25 PARTNERS™, and will continue to be led by Bob
26 Antin, Chief Executive Officer, President, Chairman and
27 a founder of VCA. The company will remain
28 headquartered in Los Angeles, California and will remain
focused on its business model and strategic objectives.

29 **Closing Conditions**

30 The transaction is subject to certain customary closing
31 conditions, including, among other things, VCA
32 shareholder approval and customary regulatory
33 approvals. Mars has committed financing for the

purchase of VCA. We expect the transaction to close in Q3 2017.

22. VCA's stock has demonstrated significant growth in the last year. VCA stockholders should be provided with sufficient financial information in the Proxy Statement to make an informed decision regarding the Proposed Transaction.



23. The Merger Consideration offered to VCA's public stockholders in the Proposed Transaction is unfair and inadequate because, among other things, the intrinsic value of the Company's common stock is materially in excess of the amount offered for those securities in the proposed acquisition given the Company's prospects for future growth and earnings. The Proposed Transaction will deny Class members their right to fully share equitably in the true value of the Company.

1 24. For example, the Company's third quarter 2016 results, released on
2 October 26, 2016, were very positive. The Defendant Antin commented on these
3 results:

4 We had an outstanding quarter highlighted by 16.2%
5 growth in our adjusted diluted earnings per common
6 share. We continue to experience healthy organic
7 revenue growth and increasing gross margins in both our
8 core Animal Hospital and Laboratory businesses. Given
9 our results relative to our expectations and our future
acquisition pipeline, we remain optimistic with respect to
our results for the full year ended December 31, 2016.

10 Animal Hospital revenue in the third quarter increased
11 25.2%, to \$553.4 million, driven by acquisitions made
12 during the past 12 months and same-store revenue
13 growth of 5.4%. Our same-store gross profit margin
14 increased 50 basis points to 17.5%, and our total gross
15 margin remained flat at 17.0%. Excluding acquisition-
16 related amortization expense, our Non-GAAP same-store
17 gross profit margin increased 40 basis points to 18.4%;
18 and Non-GAAP Animal Hospital total gross profit
19 margin increased 50 basis points to 18.5%. During the
20 2016 third quarter, we acquired 12 independent animal
hospitals which had historical combined annual revenue
of \$38 million bringing our year to date total, excluding
CAPNA, to 49 independent animal hospitals with
historical combined annual revenue of \$146 million.

21 Our Laboratory internal revenue in the third quarter
22 increased 5.5% to \$105.1 million; laboratory gross profit
23 margin increased 40 basis points to 51.6% and our
24 operating margin increased 60 basis points to 42.3%.
25 Excluding acquisition-related amortization expense, Non-
26 GAAP Laboratory gross profit increased 20 basis points
to 51.9%; and Non-GAAP Laboratory operating margin
increased 60 basis points to 42.7%/³

27 ³ www.sec.gov/Archives/edgar/data/817366/000117184316012626/exh_991.htm.

1 25. On the conference call with analysts, the Company's Chief Financial
2 Officer, Tom Fuller, commented on specific financial metrics:

3
4 Today, we reported GAAP earnings per share, diluted
5 earnings per share \$0.71 per share, adding back
6 acquisition related amortization expense of \$0.07 per
7 share, adjusted diluted earnings per share of \$0.79 which
8 is 16.1% increase over the \$0.68 of adjusted diluted
9 earnings per share in the third quarter of 2015... adjusted
10 diluted earnings per share increased almost 20%, 19.7%
11 year-over-year on an apples-to-apples basis, so great EPS
12 growth. Our core hospital and lab businesses continued
13 well; margins are up in both of those segments and over
14 5% on comps for each of those. On a day adjusted
15 internal growth of 5.5%, the lab adjusted operating
16 margin was up 60 basis points and on same-store growth
17 in the hospitals of 5.4%, same-store adjusted gross profit
18 margin was up 40 basis points.

19 As for the components of growth, number of requisitions
20 volume up 3.3%, a \$3,495,000; and average requisition
21 up 2.1% to \$30.08. Total requisitions for the quarter,
22 same number, \$3,495,000. So, I think the labs had a great
23 quarter, 5.5% internal growth, 4.8% total growth with
24 that business day adjustment affecting margins a little bit,
25 but still great margin improvement, 54% incremental
26 margin, 58% adjusted for that billing day difference. So,
27 lab market is strong, October is trending above 5%, so
28 very pleased with the lab performance.

29 So, companywide, I think we had a good solid quarter,
30 the economy is hanging in there, consumer is getting
31 stronger, I think demand for our services continues to be
32 good, and we continue to do good job managing. I think
33 we're seeing, on good internal growth rates; we're seeing
34 the operating leverage we've seen in the past, good
35 expansion, hospital lab, operating margins up 30 basis

1 points in the hospitals, 60 basis points improvement in
2 lab operating margins.

3 [W]e have a great free cash flow, very strong balance
4 sheet to finance all that growth.⁴

5 26. The Company's fourth quarter results, released on February 9, 2017,
6 similarly were positive. The Individual Defendants Antin commented:

7
8 We had a strong fourth quarter, which concluded another
9 excellent year. We experienced solid organic revenue
10 growth of 4.9% and 5.3% in our core Animal Hospital
and Laboratory business segments, respectively.

11 Animal Hospital revenue in the fourth quarter of 2016
12 increased 26.2% to \$539.4 million driven by acquisitions
13 made in the past twelve months and same-store revenue
14 growth of 4.9%. Our same-store gross profit margin
15 increased to 15.4%, from 14.3% and our total gross
16 margin increased to 14.4% from 14.2% in the prior-year
17 quarter. During the quarter, we acquired 22 independent
18 animal hospitals, which had historical combined annual
19 revenue of \$73.1 million, bringing our year-to-date total
(including CAPNA) to 127 independent animal hospitals
20 with historical combined annual revenue of \$397.0
21 million.

22 Our Laboratory internal revenue in the fourth quarter of
23 2016 increased 5.3% to \$98.4 million driven by an
24 increase in average revenue per requisition of 4.3%.
Laboratory gross profit margin decreased slightly to
25 48.5% from 48.8% and Non-GAAP Laboratory operating
26 margin increased to 39.1% from 38.4%.⁵

25 ⁴ <http://seekingalpha.com/article/4015207-vcas-woof-ceo-bob-antin-q3-2016-results-earnings-call-transcript?part=single>. (last visited 03/06/2017)

26 ⁵ www.sec.gov/Archives/edgar/data/817366/000117184317000782/exh_991.htm (last
27 visited 03/06/2017)

27. But the Board did little to seek out better proposals from other entities to maximize stockholder value. Indeed, as reflected in the Proxy Statement, the Board initially discussed a strategic transaction with Mars about two years ago. In 2016, the negotiations resumed almost exclusively with Mars. Proxy Statement, 29-38.

The Materially Incomplete and Misleading Proxy Statement

28. On February 15, 2017, Defendants caused the material incomplete and misleading Proxy Statement to be filed with the SEC. The information contained in the Proxy Statement has thus been disseminated to VCA stockholders to solicit their vote in favor of the Proposed Transaction. The Proxy Statement omits certain material information concerning the fairness of the Proposed Transaction and Merger Consideration. Without such information, VCA shareholders cannot make a fully informed decision concerning whether or not to vote in favor of the Proposed Transaction.

29. First, the “Projected Financial Information” section of the Proxy Statement (50-53) fails to provide material information concerning the Company’s financial projections. Specifically, the Proxy Statement provides projections for Non-GAAP financial metrics including Adjusted EBITDA,⁶ Adjusted Net Income, Adjusted Fully Diluted EPS and Unlevered Free Cash Flow (“UFCF”), but fails to disclose the line-item projections for the specific metrics, adjustments and/or inputs that are used to calculate these Non-GAAP financial measures. Proxy Statement, 52-53.

⁶ Adjusted EBITDA also was utilized by Barclays to determine a range of equity valuations for the Company using the Discounted Cash Flow Analysis. Specifically, Barclays relied on the Company’s Adjusted EBITDA to calculate the range of terminal value multiples of 12.0x to 14.0x. Proxy Statement, 46.

1 30. The Proxy Statement provides that the Board relied on these
2 projections to recommend the Proposed Transaction and to solicit stockholders to
3 vote in favor of the Proposed Transaction. Proxy Statement, at 39. Therefore, this
4 information is material to stockholders to weigh the solicitation statement and must
5 be disclosed.

6 31. Moreover, when a company discloses information to solicit votes in a
7 Proxy Statement that includes non-GAAP financial measures, the Company must
8 also disclose comparable GAAP measures and a quantitative reconciliation of
9 forward-looking information. 17 C.F.R. § 244.100.

10 32. Indeed, the SEC has recently increased its scrutiny of the use of non-
11 GAAP financial measures in communications with shareholders. Former SEC
12 Chairwoman, Mary Jo White, recently stated that the frequent use by publicly
13 traded companies of unique company-specific non-GAAP financial measures (as
14 the Company has included in the Recommendation Statement here), implicates the
15 centerpiece of the SEC's disclosures regime:

16
17 In too many cases, the non-GAAP information, which is
18 meant to supplement the GAAP information, has become
19 the key message to investors, crowding out and
20 effectively supplanting the GAAP presentation. Jim
21 Schnurr, our Chief Accountant, Mark Kronforst, our
22 Chief Accountant in the Division of Corporation Finance
23 and I, along with other members of the staff, have spoken
24 out frequently about our concerns to raise the awareness
25 of boards, management and investors. And last month,
26 the staff issued guidance addressing a number of
27 troublesome practices *which can make non-GAAP*
28 *disclosures misleading*: the lack of equal or greater
prominence for GAAP measures; exclusion of normal,
recurring cash operating expenses; individually tailored
non-GAAP revenues; lack of consistency; cherry-
picking; and the use of cash per share data. I strongly

1 urge companies to carefully consider this guidance and
 2 revisit their approach to non-GAAP disclosures. I also
 3 urge again, as I did last December, that appropriate
 4 controls be considered and that audit committees
 carefully oversee their company's use of non-GAAP
 measures and disclosures.

5
 6 33. In recent months, the SEC has repeatedly emphasized that disclosure
 7 of non-GAAP projections can be inherently misleading, and has therefore heightened
 8 its scrutiny of the use of such projections.⁷ Indeed, on May 17, 2016, the SEC's
 9 Division of Corporation Finance released new and updated Compliance and
 10 Disclosure Interpretations ("C&DIs") on the use of non-GAAP financial measures
 11 that demonstrate the SEC's tightening policy.⁸ One of the new C&DIs regarding
 12 forward-looking information, such as financial projections, explicitly requires
 13 companies to provide *any* reconciling metrics that are available without
 14 unreasonable efforts.

15 34. The above-referenced line item projections that have been omitted
 16 from the Proxy Statement for VCA are precisely the types of "reconciling metrics"
 17 that the SEC has recently indicated should be disclosed to render non-GAAP
 18 financial projections not misleading to shareholders.

19 35. The omission of the line item projections used to calculate the various
 20 non-GAAP measures included in the Proxy Statement and/or the most directly
 21

22 ⁷ See, e.g., Nicolas Grabar and Sandra Flow, *Non-GAAP Financial Measures: The SEC's*
 23 *Evolving Views*, Harvard Law School Forum on Corporate Governance and Financial Regulation
 24 (June 24, 2016), [https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-](https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-secs-evolving-views/)
 25 [secs-evolving-views/](https://corpgov.law.harvard.edu/2016/06/24/non-gaap-financial-measures-the-secs-evolving-views/); Gretchen Morgenson, *Fantasy Math Is Helping Companies Spin Losses*
 26 *Into Profits*, N.Y. Times, Apr. 22, 2016, [http://www.nytimes.com/](http://www.nytimes.com/2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0)
 27 [2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0](http://www.nytimes.com/2016/04/24/business/fantasy-math-is-helping-companies-spin-losses-into-profits.html?_r=0) (last
 28 visited 03/06/2017).

26 ⁸ *Non-GAAP Financial Measures, Compliance & Disclosure Interpretations*, U.S.
 27 SECURITIES AND EXCHANGE COMMISSION (May 17, 2017),
 28 <https://www.sec.gov/divisions/corpfin/guidance/nongaapinterp.htm>. (last visited 03/06/2017)

1 comparable GAAP measures, renders the projections included on page 52-53 of
2 the Proxy Statement materially incomplete and misleading

3 36. The Proxy Statement also discloses that the Board, in making its
4 recommendation in favor of the Proposed Transaction, may also have relied on
5 prior preliminary projections, which appear to have been updated. The Proxy
6 Statement indicates that the Board looked to management's "... preliminary
7 financial projections through fiscal year 2021 (the "Preliminary Management
8 Projections"), which it provided to Barclays solely for the purpose of enabling
9 Barclays to prepare its preliminary financial analysis of the Company, which was
10 discussed with the Board at its December 8, 2016 meeting. The Company informed
11 Barclays that management was continuing its review of the Preliminary
12 Management Projections, and expected to revise certain of the assumptions and
13 estimates used in the Preliminary Management Projections during the course of its
14 continuing review. The Preliminary Management Projections were not provided to
15 Mars." The Proxy continues, "Between December 6, 2016 and December 30,
16 2016, management refined the assumptions and estimates used in the preparation
17 of its financial projections, as further described below. On December 16, 2016,
18 management provided Barclays with updated financial projections, which were
19 revised from the Preliminary Management Projections, for the purpose of enabling
20 Barclays to prepare its updated preliminary financial analysis of the Company,
21 which was discussed with the Board at its December 27, 2016 meeting. These
22 revised financial projections were also made available to Mars and its advisors on
23 December 16, 2016. On December 30, 2016, the Company provided to Barclays
24 the Final Management Projections, which did not materially differ from the
25 December 16, 2016 projections, and instructed Barclays to use the Final
26 Management Projections in connection with the preparation of its fairness opinion

1 to the Board. The Final Management Projections were also made available to Mars
 2 and the Board. While certain underlying components comprising the definition of
 3 Unlevered Free Cash Flow were provided to Mars, the Company's arithmetical
 4 calculation of Unlevered Free Cash Flow was not provided to Mars." Proxy
 5 Statement, 50.⁹

6 37. Thus, disclosure of the actual assumption and/or GAAP inputs to
 7 determine the Company's projections is critical for stockholders to understand the
 8 basis for the Board's recommendation.

9 38. The Proxy Statement also discloses that VCA entered into a non-
 10 disclosure/confidentiality agreement ("NDA") that contained a "customary"

11 ⁹ The Proxy Statement provides some information on the bases for the different projections,
 12 which appear indicate that the projections that were relied on by the Board and used and/or relied
 13 on by Barclays, would be more favorable for Barclay's Fairness Opinion in support of the
 14 Merger Consideration:

15 The principle differences in the assumptions and estimates underlying the Preliminary
 16 Management Projections and the Final Management Projections are as follows:

- 17 • the projected rate of growth of the Company's business was revised due to management's
 18 belief that the Company's revenue would grow at projected rates of 14.3% and 9.8% for
 19 the years ended 2017 and 2018, respectively, based on recent historical performance of
 20 the Company, as opposed to the projected rates of 14.9% and 10.0% for the years ended
 21 2017 and 2018, respectively, that were used in the Preliminary Management Projections.
 22 The change in the projected rates was driven by management's downward adjustment to
 23 projected acquisition activity and a slight decrease in management's organic growth
 24 projections for the years ended 2016-2017. The decrease in these revenue growth
 25 projections resulted in a decrease in the projected revenues for the Company in all
 26 projected years, and
- 27 • as a result of the above mentioned decrease in the projected revenues, as well as
 28 management's lower projected gross margin expansion for all projected years and
 management's slight increase in management's projection for the selling, general, and
 administrative expenses growth rate in 2017, Adjusted Net Income and Adjusted
 EBITDA were lower in the Final Management Projections than in the Preliminary
 Management Projections for all projected years and Unlevered Free Cash Flow was lower
 in each year from 2018-2021.

26 Proxy Statement, 51-52.

standstill provision that required the Company's consent to engage in certain actions. However, the Proxy Statement is silent as to whether this NDA contained a "Don't Ask Don't Waive" provisions and/or whether the standstill provision still is in effect or whether, as is required, the standstill clause was terminated once VCA and Mars entered into the Merger Agreement. Proxy Statement, at 30.

39. By reason of the foregoing, Defendants have violated the Exchange Act and rules promulgated thereunder.

40. Unless Defendants are enjoined by the Court, they will continue to breach their duties owed to Plaintiff and the members of the Class, to the irreparable harm of the members of the Class.

41. Based on the foregoing disclosure deficiencies in the Proxy Statement, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that VCA stockholders will suffer if they are required to vote on the Proposed Transaction without the above-referenced material misstatements and omissions being remedied.

CLASS ALLEGATIONS

42. Plaintiff brings this Action as a class action pursuant to Fed. R. Civ. P. 23 individually and on behalf of all other holders of VCA common stock (except defendants named herein and any person, firm, trust, corporation, or other entity related to or affiliated with them and their successors in interest) who are or will be threatened with injury arising from Defendants' wrongful actions as more fully described herein (the "Class").

43. This action is properly maintainable as a class action.

44. The Class is so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through discovery, Plaintiff believes there are thousands of

1 members in the Class. As of February 21, 2017, there were 81,236,013 shares of
2 Common Stock issued and outstanding.¹⁰ The holders of these shares of stock are
3 believed to be geographically dispersed throughout the United States. All
4 members of the Class may be identified from records maintained by VCA or its
5 transfer agent and may be notified of the pendency of this action by mail, using
6 forms of notice similar to that customarily used in securities class actions.

7 45. Questions of law and fact are common to the Class and predominate
8 over questions affecting any individual class member. The common questions
9 include, *inter alia*, the following: (i) whether Defendants have misrepresented or
10 omitted material information concerning the Proposed Transaction in the Proxy
11 Statement in violation of Section 14(a), SEC Rule 14a-9 among other SEC rules,
12 (ii) whether the Individual Defendants may be liable under Section 20(a) of the
13 Exchange Act; and (iii) whether Plaintiff and other members of the Class will
14 suffer irreparable harm if the Proposed Transaction is consummated as presently
15 anticipated.

16 46. Plaintiff's claims are typical of the claims of the other members of the
17 Class. Plaintiff and the other members of the Class have and will sustain legal and
18 equitable damages as a result of Defendants' wrongful conduct as alleged herein.

19 47. Plaintiff will fairly and adequately protect the interests of the Class,
20 and has no interests contrary to or in conflict with those of the Class that Plaintiff
21 seeks to represent. Plaintiff is committed to prosecuting this action and has
22 retained competent counsel experienced in litigation of this nature.

23 48. A class action is superior to all other available methods for the fair
24 and efficient adjudication of this controversy. Plaintiff knows of no difficulty to be
25

26
27 ¹⁰ www.sec.gov/Archives/edgar/data/817366/000162828017001885/woof-2016x12x31x10k.htm.

1 encountered in the management of this action that would preclude maintenance as
2 a class action.

3 **COUNT I**
4 **Claim for Violations of Section 14(a) of the**
5 **Exchange Act Against All Defendants**

6 49. Plaintiff repeats and realleges each allegation set forth herein.

7 50. Defendants have issued the Proxy Statement with the intention of
8 soliciting stockholder support for the Proposed Transaction.

9 51. Rule 14a-9, promulgated by the SEC pursuant to Section 14(a) of the
10 Exchange Act, provides that such communications with stockholders shall not
11 contain “any statement which, at the time an in the light of the circumstances under
12 which it is made, is false or misleading with respect to any material fact, or which
13 omits to state any material fact necessary in order to make the statements therein
14 not false or misleading.” 17 C.F.R. §240.14a-9.

15 52. Specifically, the Proxy Statement violates Section 14(a), Rule 14a-9
16 and Regulation G because it omits material facts as set forth above which renders
17 the statements and information identified above false and/or misleading.
18 Moreover, in the exercise of reasonable care, Defendants should have known that
19 the Proxy is materially misleading and omits material facts that are necessary to
20 render it non-misleading.

21 53. The misrepresentations and omissions in the Proxy Statement are
22 material to Plaintiff who will be deprived of his entitlement to cast a fully informed
23 vote if such misrepresentations and omissions are not corrected prior to the vote on
24 the Proposed Transaction. As a direct and proximate result of Defendants’
25 conduct, Plaintiff will be irreparably harmed.

26 54. Plaintiff and the members of the Class have no adequate remedy at
27 law.

COUNT II
Claims for Violations of Section 20(a) of the Exchange Act
Against the Individual Defendants

55. Plaintiff repeats and realleges each allegation set forth herein.

56. The Individual Defendants acted as controlling persons of VCA within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their positions as officers and/or directors of the VCA, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Proxy Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements which Plaintiff contends were false and/or materially incomplete and therefore misleading.

57. Each of the Individual Defendants were provided with or had unlimited access to copies of the Proxy Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

58. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations alleged herein, and exercised the same. The Proxy Statement at issue contains the unanimous recommendation of each of the Individual Defendants to approve the Proposed Transaction. Thus, the Individual Defendants were intimately connected with and directly involved in the making of this document.

1 59. In addition, as the Proxy Statement sets forth at length, and as
2 described herein, the Individual Defendants were each involved in negotiating,
3 reviewing, and approving the Merger. The Proxy Statement purports to describe
4 the various issues and information that the Individual Defendants reviewed and
5 considered. The Individual Defendants participated in drafting and/or gave their
6 input on the content of those descriptions.

7 60. By virtue of the foregoing, the Individual Defendants have violated
8 Section 20(a) of the Exchange Act.

9 61. Plaintiff has no adequate remedy at law.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Plaintiff prays for judgment and relief as follows:

12 A. Ordering that this action may be maintained as a class action and
13 certifying Plaintiff as the Class representative and Plaintiff's counsel as Class
14 counsel;

15 B. Enjoining Defendants and all persons acting in concert with them
16 from proceeding with, consummating the Proposed Transaction, unless and until
17 the Company discloses the material information discussed above, which has been
18 omitted from the Proxy Statement and obtain increased merger consideration for
19 the Company's stockholders;

20 C. Rescinding, to the extent already implemented, the Proposed
21 Transaction or any of the terms thereof, or granting Plaintiff and the Class
22 rescissory damages

23 D. In the event Defendants consummate the Proposed Transaction,
24 awarding damages to Plaintiff and the Class;

25 E. Awarding Plaintiff the costs of this action, including reasonable
26 allowance for Plaintiff's attorneys' and experts' fees; and
27

1 F. Granting such other and further relief as this Court may deem just and
2 proper.

3 **JURY DEMAND**

4 Plaintiff demands a trial by jury on all issues so triable.

5
6 Dated: March 6, 2017

FARUQI & FARUQI, LLP

7
8 /s/ Barbara A. Rohr

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22 *Attorneys for Plaintiff*

CERTIFICATION OF PROPOSED LEAD PLAINTIFF

I, Josh Krieger Sellers ("Plaintiff"), declare, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed a draft complaint against VCA, Inc. ("VCA") and its board of directors and has authorized the filing of a complaint substantially similar to the one I reviewed.
2. Plaintiff selects Faruqi & Faruqi, LLP and Monteverde & Associates PC and any firm with which it affiliates for the purpose of prosecuting this action as my counsel for purposes of prosecuting my claim against defendants.
3. Plaintiff did not purchase the security that is the subject of the complaint at the direction of Plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.
4. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
5. Plaintiff's transactions in VCA securities that are the subject of the complaint during the class period specified in the complaint are set forth in the chart attached hereto.
6. In the past three years, Plaintiff has not sought to serve nor has served as a representative party on behalf of a class in an action filed under the federal securities laws, except as specified below:
7. Plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States that the foregoing information is correct to the best of my knowledge.

Signed this 6th day of March 2017.


Josh Krieger

Transaction (Purchase or Sale)	Trade Date	Quantity
Purchase	03/18/16	100